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JUN 30 2004

## OFFICE OF PETITIONS

In re Application of	:	
Stelzer et al.	:	
Application No. 10/823,934	:	DECISION GRANTING
Filed: April 14, 2004	:	PETITION
Attorney Docket No. WSTR 8465	:	

This is a decision on the "PETITION TO CORRECT APPLICATION FILING DATE BASED ON INCORRECT 'DATE-IN' ENTERED BY U.S.P.S. ON EXPRESS MAIL LABEL (37 C.F.R. § 1.10(d))," filed May 7, 2004. Applicants request that the above-identified application be accorded a filing date of April 14, 2004, rather than the presently accorded filing date of April 13, 2004.

Petitioner maintains that on April 14, 2004, the application was deposited as "Express Mail" in the U.S. Postal Service. However, the USPS incorrectly entered a date-in of April 13, 2004. In support thereof, applicants submit, *inter alia*, a transmittal letter specifically identifying the papers being filed therewith and noting thereon the Express Mail mailing label No. "EV432654685US"; and a copy of the Express Mail mailing label.

The evidence supports a conclusion that the instant petition was filed promptly within the meaning of § 1.10(d)(1). The transmittal specifically identifies the papers being filed, is a copy of the transmittal in fact received with the application papers, and bears the Express Mail mailing label number. Thus, petitioner has shown that the "Express Mail" mailing label number "EV432654685US" was placed on the papers prior to the original mailing.

A review of the "Express Mail" mailing label reveals that it bears a handwritten date-in of April 13, 2004, but a USPS postmark of April 14, 2004. The Official USPS postmark corroborates petitioners' claim that the application papers were deposited in Express Mail service on April 14, 2004. Further, a review of the USPS's Official Track & Confirm record, available at [www.usps.com](http://www.usps.com), shows that the relevant Express Mail package was accepted by the USPS at 4:14 pm on April 14, 2004 (copy enclosed).

In view thereof, the petition is GRANTED.

No petition fee is required.

The Office of Initial Patent Examination (OIPE) has been directed, pursuant to this decision, to correct the filing date to April 14, 2004.

Telephone inquires related to this decision may be directed to the undersigned at (703) 305-0309.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of USPS Track & Confirm record